

In the Matter of Proposed Rule for)
211 Service) TX-2004-0154

Comes now Southwestern Bell Telephone, L.P., d/b/a SBC Missouri (“SBC Missouri”) and, for its Comments Regarding In the Matter of Proposed Rule for 211 Service, states as follows:

(2) When a telecommunications company receives a request from an entity to use 211 as the Information and Referral Provider for a geographic area, the telecommunications company shall:

(B) Take steps necessary (such as reprogramming switch software) to complete 211 calls from its subscribers to the Information and Referral Provider;

(D) Determine that the entity is a Missouri I&R Provider or has submitted an application to become an authorized I&R Provider in Missouri. (Emphasis added).

a. Specifically, SBC Missouri objects to the use of the word “use” as set forth in proposed Rule 4 CSR 240-32.200(2), as well as subpart A. The I&R Provider would request that it “be assigned” the 211 code. Thus, the phrase “be assigned” should be substituted for the word “use” in section 4 CSR 240-32.200(2). As to subpart (A), although SBC Missouri can ensure that entities that

were “assigned” 211 at the local level prior to July 31, 2000, relinquish the assignment of the code for noncompliant service, SBC Missouri does not know whether any entity was actually using the 211 code prior to July 31, 2000. Thus, the word “assigned” should be utilized rather than the word “using” and the word “assignment” should be utilized rather than the word “use” in subpart A.

b. SBC also seeks clarification with regard to 4 CSR 240-32.200(2)(C). Specifically, as written, this Rule refers to 392.220(3), RSMo. which provides:

No telecommunications company subject to the provisions of this law shall, directly or indirectly, give any free or reduced service, or any free pass or frank for the provision of telecommunications services between points within this state, except to its officers, agents, surgeons, physicians, attorneys at law and their families; to persons or corporations exclusively engaged in charitable and eleemosynary work and ministers of religion; to officers and employees of other telegraph corporations and telephone corporations, railroad corporations and street railroad corporations; public education institutions, public libraries and not-for-profit health care institutions. This subsection shall not apply to state, municipal or federal contracts.

SBC Missouri submits that it would be preferable to have no statutory reference mentioned in this section of the proposed Rule as a reference to a specific statute is unnecessary. However, to the extent that the Commission believes that it is necessary to refer to a specific statutory reference, the more appropriate reference is Section 392.220(1), which provides:

Every telecommunications company shall print and file with the commission schedules showing the rates, rentals and charges for service of each and every kind by or over its facilities between points in this state and between each point upon its facilities and all points upon all facilities leased or operated by it and between each point upon its facilities or upon any facility leased or operated by it and all points upon the line of any other telecommunications

company whenever a through service or joint rate shall have been established between any two points. If no joint rate over through facilities has been established, the several companies joined over such through facilities shall file with the commission the separately established rates and charges applicable where through service is afforded. Such schedule shall plainly state the places between which telecommunications service will be rendered and shall also state separately all charges and all privileges or facilities granted or allowed and any rules or regulations or forms of contract which may in any wise change, affect or determine any or the aggregate of the rates, rentals or charges for the service rendered. Such schedule shall be plainly printed and kept open to public inspection. The commission shall have the power to prescribe the form of every such schedule and may from time to time prescribe, by order, changes in the form thereof. The commission shall also have power to establish rules and regulations for keeping such schedules open to public inspection and may from time to time modify the same. Every telecommunications company shall file with the commission as and when required by it a copy of any contract, agreement or arrangement in writing with any other telecommunications company or with any other corporation, association or person relating in any way to the construction, maintenance, or use of telecommunications facilities or service by or rates and charges over or upon any facilities.

This proposed reference change would be consistent with the intent of the proposed Rule because proposed Rule 4 CSR 240-32.200(12) specifically requires the Missouri I&R Provider to pay all costs associated with provisioning the service. Specifically, proposed Rule 4 CSR 240-32.200(12) provides: “A Missouri I&R Provider will be responsible for all costs of provisioning service, including nonrecurring and recurring charges incurred by the use of the abbreviated dialing code 211.”

c. SBC Missouri objects to 4 CSR 240-32.200(2)(D) in that it requires telecommunications companies to determine that the entity is a Missouri I&R Provider or has submitted an application to become an authorized I&R Provider in Missouri. SBC Missouri does not make the determination that an

entity is a Missouri I&R Provider; the Commission is responsible for making this determination. Thus, just as the Commission is responsible for notifying all incumbent local exchange companies (“ILECs”) and all facilities-based local exchange telecommunications companies (“LECs”) certificated to provide basic local telecommunications service that an entity has applied to become a Missouri I&R Provider under proposed Rule 4 CSR 240-32.200(4), the Commission should issue an order notifying all ILECs and all facilities-based LECs that an applicant has become a Missouri I&R Provider.

d. Thus, SBC Missouri proposes that proposed Rule 4 CSR 240-32.200 be modified as follows¹:

(2) When a telecommunications company receives a request from an entity, **whose application to become a Missouri I&R Provider has been granted by the commission**, to **[use]** be assigned 211 as the **[Information and Referral] Missouri I&R** Provider for a geographic area, the telecommunications company shall:

(A) Ensure that any entities that were **[using]** assigned 211 at the local level prior to July 31, 2000, relinquish **[use]** assignment of the code for noncompliant services;

(B) Take steps necessary (such as reprogramming switch software) to complete 211 calls from its subscribers to the **[Information and Referral] Missouri I&R** Provider;

(C) Submit a tariff to the commission, if no tariff exists, incorporating rates, terms and conditions for 211 service. **[; the tariff shall include rates established pursuant to the provisions of section 392.220(1), RSMo; and**

(D) **Determine that the entity is a Missouri I&R Provider or has submitted an application to become an authorized I&R Provider in Missouri.]**

2. SBC Missouri proposes to modify 4 CSR 240-32.200(4)(B) to require the Commission to notify all ILECs, facilities-based LECs, human service organizations and

¹ Language that SBC Missouri proposes to add is noted in **bold**. Language that SBC Missouri proposed to delete is noted in brackets in bold, i.e. **[bold]**.

social service organizations for the exchange(s) served and all city governments in the cities with the requested exchanges that an entity's application to become a Missouri I&R Provider has been granted. As the grant of the application will require telephone companies serving the area where the Missouri I&R Provider intends to operate to undertake actions to allow such calls to be processed, and because the provision of 211 service will impact various human service organizations in the area of intended service, SBC Missouri proposes the following language:

(B) The commission will grant an entity's application to become a Missouri I&R Provider unless it finds that granting the application is not in the public interest. **The commission shall issue notice to all incumbent local exchange telecommunications companies in the exchange(s) to be served and all facilities based alternative local exchange companies certificated to provide basic local telecommunications service, all human services entities listed in the yellow pages under the categories "Human Service Organizations" and "Social Service Organizations" for the exchange(s) to be served, and all city governments in cities with the requested exchanges that have a population of five thousand (5,000) or more persons that it has granted the entity's application to become a Missouri I&R Provider.**

3. SBC Missouri objects to 4 CSR 240-32.200(7) which provides:

A Missouri I&R Provider will be entitled to use the three (3) digit 211 abbreviated dialing code to serve the community for a period of three (3) years. (Emphasis added).

a. Specifically, SBC Missouri objects to the use of the word "use" for the same reasons as earlier stated -- neither the Commission nor telecommunications companies can ensure that the applicant to become a Missouri I&R Provider will actually use the 211 code once it is assigned to them. Thus, SBC Missouri prefers the use of the word "assigned."

b. For these reasons, SBC Missouri proposes that 4 CSR 240-32.200(7) be modified as follows:

A Missouri I&R Provider will be entitled to **[use] assignment of** the three (3) digit 211 abbreviated dialing code to serve the community for a period of three (3) years.

4. Finally, SBC Missouri seeks clarification regarding proposed Rule 4 CSR 240-32.200(13) which provides:

Neither a telephone company nor a Missouri I&R Provider shall charge end users for 211 service.

a. It is SBC Missouri's understanding that the intent of this proposed Rule is that the end-user not be charged an additional fee for dialing 211. However, as worded, this proposed Rule would not allow telecommunications companies to charge end users at all. Thus, under the proposed Rule, end users who make calls from payphones or end users who purchase services such as local measured services, where customers pay based on the length of time that they spend on local calls, could not be charged for 211 calls. The private cost estimate as currently submitted does not reflect the substantial cost that would be incurred by SBC Missouri, other telecommunications carriers, and I&R Providers if this requirement is imposed.

b. Thus, if the intent of this proposed Rule is that the end user not be charged an additional fee for dialing 211, then proposed Rule 4 CSR 240-32.200(13) should be amended to allow standard rates and charges assessed by carriers to apply to 211 calls. Under this scenario, end-users who have flat rate service would not incur any additional cost to make a 211 call. End-users who have measured service would incur the same cost to make a 211 call as they incur to make any other local call. End-users who use payphones would incur the cost of a local payphone call.

c. Thus, proposed Rule 4 CSR 240-32.200(13) would be modified as follows:

[Neither a telephone company nor a Missouri I&R Provider shall charge end users for 211 service.] Standard rates and charges for telecommunications services shall apply to calls to a Missouri I&R Provider.

Wherefore, SBC Missouri prays that the Commission consider its comments and modify the proposed rules as outlined above, together with any further and/or additional relief the Commission deems just and proper.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.,
D/B/A SBC MISSOURI

By: 

PAUL G. LANE	#27011
LEO J. BUB	#34326
ROBERT J. GRYZMALA	#32454
MIMI B. MACDONALD	#37606

Attorneys for Southwestern Bell Telephone, L.P.,
d/b/a SBC Missouri

One SBC Center, Room 3510

St. Louis, Missouri 63101

314-235-4094 (Telephone)/314-247-0014 (Facsimile)

mimi.macdonald@sbccom.com (E-Mail)

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on May 17, 2004.


Mimi B. MacDonald

Dana Joyce
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

John B. Coffman
Office of the Public Counsel
P. O. Box 7800
200 Madison Street, Suite 650
Jefferson City, MO 65101